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Ex-Agent May Have 'Faked' Testimony in Emigrés' Trial

By JUDITH CUMMINGS

Special to The New York Times

LOS ANGELES, June 20 — Richard W. Miller, saying "it gets pretty tiring sitting up here answering questions," admitted Thursday that he "may have faked" an answer he gave a prosecutor in the trial of an émigré couple who are charged with conspiring with him to spy for the Soviet Union.

Mr. Miller, a former member of the Federal Bureau of Investigation, has been on the witness stand in Federal District Court for seven days in the trial of the couple, Svetlana and Nikolay Ogorodnikov.

The matter in question concerned whether Mr. Miller, the first bureau agent ever charged with espionage, had failed to tell another agent that he had been seeing Mrs. Ogorodnikov without permission, as Mr. Miller testified a few days ago he had.

Brad D. Brian, a lawyer for Mrs. Ogorodnikov, asked Mr. Miller whether, in that testimony, he had been telling a prosecutor, Bruce G. Merritt, "what you thought he wanted to hear."

"It gets pretty tiring sitting up here answering questions," Mr. Miller said. "I may have faked it."

Mr. Brian also suggested that Mr. Miller was trying to "shift the blame" onto Mrs. Ogorodnikov, whom he described as emotionally unstable.

Mr. Miller, who was dismissed by the bureau hours before he was arrested on spy charges Oct. 2, agreed to testify at the Ogorodnikovs' trial only after the judge, David V. Kenyon, granted him immunity. The immunity provides that Mr. Miller's testimony cannot be used against him at his own trial later. Conspiracy to commit espionage is punishable by life in prison.

Mr. Brian recited a list of personal

and job problems that Mr. Miller had acknowledged he was having May 1984, when he met Mrs. Ogorodnikov and they began a relationship that the Government asserts led to an espionage conspiracy. Those problems included his probationary status at the bureau, orders to lose 30 pounds, marital discord, and a "tight" financial situation.

Mr. Brian suggested that those problems had led him to consort with Mrs. Ogorodnikov for personal comfort and diversion, rather than because she was recruiting him into spying, as the Government contends.

'Slapping My Wrist'

But Mr. Miller, in testimony that caught the courtroom by surprise, said he had not been worried about his problems with the bureau.

"I wasn't concerned about the probation," he said. He said he had felt that "the bureau couldn't do anything worse to me except fire me, and I didn't think they were going to do that — I would have welcomed being fired."

Judge Kenyon interrupted to ask Mr. Miller if he was certain that was what he meant to say. The former agent, who is 48 years old and had a 20-year career in the bureau, seemed to back down a little. "I wouldn't have welcomed it, but it would have given me a chance, in a way, to regroup and go in another direction," he said.

Mr. Brian, in what appeared to be a developing defense theme, accused Mr. Miller of having tried to "shift the blame" to Mrs. Ogorodnikov when he went to his superiors Sept. 27 and told them a version of his activities with her. By then, Mr. Brian suggested, Mr. Miller knew he was "a subject of an espionage investigation."